



Department of Planning, Building and Code Enforcement

STEPHEN M. HAASE, AICP, DIRECTOR

**PUBLIC NOTICE
INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION
CITY OF SAN JOSÉ, CALIFORNIA**

Project File Number, Description, and Location

PP04-02-057: Coyote Creek Trail Master Plan. The project is the Master Plan to construct an approximately 2.5 mile multi-use trail located along Coyote Creek, between Los Lagos Golf Course and Phelan Ave in San Jose. Council District: 7

California State Law requires the City of San José to conduct environmental review for all pending projects that require a public hearing. Environmental review examines the nature and extent of any potentially significant adverse effects on the environment that could occur if a project is approved and implemented. The Director of Planning, Building & Code Enforcement would require the preparation of an Environmental Impact Report if the review concluded that the proposed project could have a significant unavoidable effect on the environment. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present. The project location **does not** contain a listed toxic site.

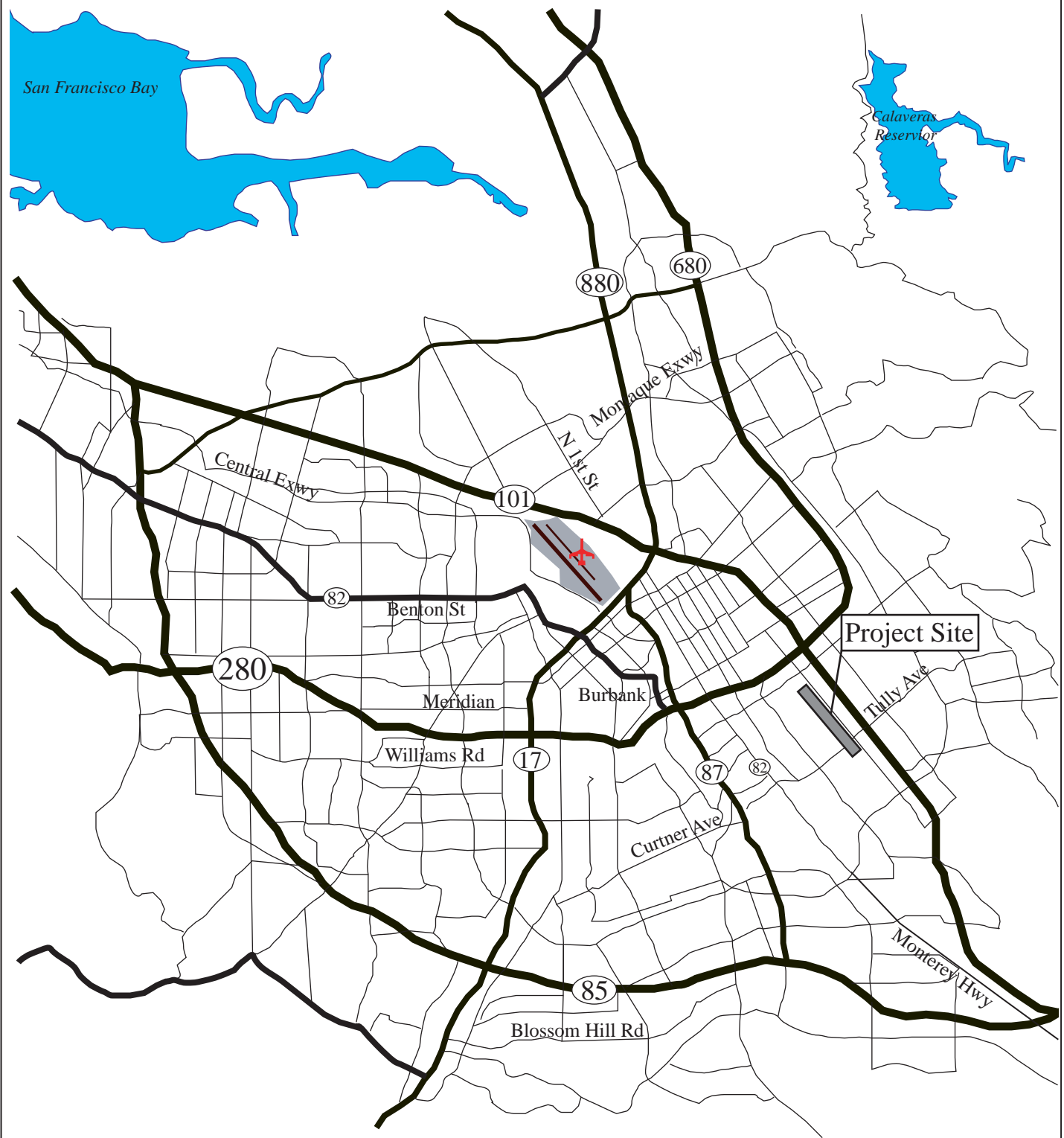
Based on an initial study, the Director has concluded that the project described above will not have a significant effect on the environment. We have sent this notice to all owners and occupants of property within 500 feet of the proposed project to inform them of the Director's intent to adopt a Mitigated Negative Declaration for the proposed project on February 11, 2005, and to provide an opportunity for public comments on the draft Mitigated Negative Declaration. The public review period for this draft Mitigated Negative Declaration begins on **January 13, 2005** and ends on **February 11, 2005**.

A public hearing on the project described above is tentatively scheduled for March 8, 2005 in the City of San Jose Council Chambers, 801 N. First Street, San Jose, CA 95110. The draft Mitigated Negative Declaration, initial study, and reference documents are available for review under the above file number from 9:00 a.m. to 5:00 p.m. Monday through Friday at the City of San Jose Department of Planning, Building & Code Enforcement, City Hall, 801 N. First Street, Room 400, San Jose, CA 95110. The documents are also available at the Dr. Martin Luther King, Jr. Main Library, 150 E. San Fernando St, San José, CA 95112, and Biblioteca Latinoamericana, 921 South First St., San José, and online at <http://www.sanjoseca.gov/planning/eir/MND.htm>. Adoption of a Negative Declaration does not constitute approval of the proposed project. The decision to approve or deny the project described above will be made separately as required by City Ordinance. For additional information, please call Michael Rhoades at (408) 277-4576.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: January 13, 2005

Deputy



Regional Map

Figure
1

**DRAFT
MITIGATED NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Coyote Creek Trail Master Plan

PROJECT FILE NUMBER: PP04-02-057

PROJECT DESCRIPTION: Master Plan for the construction of an approximately 2.5 mile multi-use trail located along the south side of Coyote Creek, between Los Lagos Golf Course and Phelan Ave. The project includes acquisition of land and easements for trail sections, establishment of interim trail sections within public streets, including new crosswalks and signage, construction of necessary drainage facilities and creating riparian habitat in mitigation areas.

PROJECT LOCATION & ASSESSORS PARCEL NOS.: 477-12-046, 477-20-057, 477-20-058, 477-20-063, 477-20-065, 477-20-061, 477-20-078, 477-20-047, 499-23-006, 499-23-005, 499-23-002.

COUNCIL DISTRICT: 7

NAME OF APPLICANT: City of San Jose Public Works Department, Parks and Recreation Facilities Division. Contact: Morgan Loafli (408) 794-1329

FINDING

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the attached initial study identifies one or more potentially significant effects on the environment for which the project applicant, before public release of this draft Mitigated Negative Declaration, has made or agrees to make project revisions that clearly mitigate the effects to a less than significant level.

MITIGATION MEASURES INCLUDED IN THE PROJECT TO REDUCE POTENTIALLY SIGNIFICANT EFFECTS TO A LESS THAN SIGNIFICANT LEVEL

The Environmental issues and Mitigation Measures are as follows:

AESTHETICS – The project will not have a significant impact on this resource, therefore no mitigation is required.

AGRICULTURE RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

AIR QUALITY

The following practices shall be implemented during all phases of construction for the proposed project.

- Water all active construction areas at least twice daily.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.
- Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
- Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.).
- Limit traffic speeds on unpaved roads to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

BIOLOGICAL RESOURCES

Stream Habitat

The City of San Jose Parks and Recreation Facilities Division shall incorporate the following construction Best Management Practices (BMP's) to preclude erosion or sediments from entering the creek during and after construction of the trail:

- Conduct construction activities during the dry season;
- Divert concentrated runoff away from channel banks;
- Minimize vegetation removal;
- Identify with construction fencing all areas that require clearing, grading revegetation or otherwise disturbed;
- Stabilize disturbed soils to minimize erosion and sediment input to the creek;
- Implement erosion control measures to prevent sediment from entering the creek channel, including the use of silt fencing or fiber rolls to trap sediments;
- Conduct erosion control seeding of all disturbed areas as soon as practicable after disturbance following construction;
- Monitor the effectiveness of the erosion control measures during the first year's rainy season and implement remedial measures (e.g., reseeding, repair of silt fencing) if sedimentation or erosion is noted.

Riparian Habitat

To compensate for direct impacts to riparian resources from the trail, the City of San Jose Parks and Recreation Facilities Division shall implement a mitigation program that includes the following:

- The City shall prepare and implement a riparian revegetation plan that recreates riparian woodland at a 3:1 ratio (see Table 1). This plan shall also include a revegetation plan for a vegetation barrier where the trail is located immediately adjacent to the woodland. The plan shall specify the detailed location of all plantings, the use of locally native riparian plant species and specify a 5-year maintenance and monitoring program. The plan shall specify the City shall monitor the revegetation areas a minimum of once a year. During each year of the 5-year monitoring period, plantings shall achieve a minimum 80% survival rate with a health rating of “good” or better for the revegetation to be deemed successful. Plant species recommended for the revegetation are listed on Table 2. Locations of potential riparian mitigation areas are presented in Figures 5A and 5B of the Initial Study prepared for the project. (Refer also to the Pre-Final Coyote Creek Trail Master Plan – Appendix A).
- The City of San Jose Parks and Recreation Facilities Division shall prepare five yearly monitoring reports and submit these reports to the City of San Jose Planning Department’s Environmental Principal Planner at the end of each monitoring year. The reports shall identify the plant survival rate, maintenance actions at the site and include photographs documenting the status of the revegetation. The City of San Jose Parks and Recreation Facilities Division and Santa Clara Valley Water District shall implement remedial measures should the success criteria not be achieved in any of the five monitoring years. Remedial measures may include replacement plantings, an increase in maintenance or changes to the irrigation regime.

Table 1
Riparian Habitat – Impact Area and Mitigation

Habitat	Impact Type	Impact Acreage	Mitigation Acreage	Mitigation Ratio
Riparian Woodland	Direct impact to riparian woodland where trail enters woodland (Near police stables, Yerba Buena HS and Phelan Ave.)	1,250 linear feet 18,750 square feet (0.43 acre), assuming 15 foot-wide construction area	56,250 square feet (1.3 acres) of riparian revegetation (See Mitigation Measure 2)	3:1
	Indirect impact to riparian woodland (where trail is not located on an existing maintenance road)	7,500 linear feet	7,500 linear feet of protective fencing and/or barrier plantings (See Mitigation Measure 2)	1:1
Total			56,250 square feet (1.3 acre) of riparian woodland 7,500 linear feet of barrier plantings and/or protective fencing	

Table 2
Recommended Riparian Woodland and Barrier Plantings

Common Name	Scientific Name	Average Spacing
Riparian Plantings		
Blue Elderberry	<i>Sambucus mexicana</i>	8' o.c.
Valley Oak	<i>Quercus lobata</i>	8' o.c.
Western Sycamore	<i>Platanus racemosa</i>	8' o.c.
California Rose	<i>Rosa californica</i>	8' o.c.
Mugwort	<i>Artemisia douglasiana</i>	8' o.c.
Barrier Plantings		
California Rose	<i>Rosa californica</i>	8' o.c.
Mugwort	<i>Artemisia douglasiana</i>	8' o.c.
Coyote Brush	<i>Baccharis pilularis</i>	8' o.c.

Trees

The following measures shall be implemented to protect trees to be retained on the project site:

- A tree survey shall be prepared for each trail segment based upon the final trail design, prior to project construction. The tree survey shall identify the size and species of all trees proposed for removal and shall include a tree replacement plan consistent with City of San Jose standards. For trees that constitute Riparian Woodland Habitat, the replacement plan shall be incorporated into the Riparian Habitat Mitigation Plan. Tree surveys and replacement/mitigation plans shall be submitted to the Environmental Principal Planner of the Department of Planning, Building and Code Enforcement for review and approval, prior to the award of construction contracts.
- No construction equipment, vehicles, or materials shall be stored or parked within the tree dripline.
- Drains shall be installed in accordance with City specifications to avoid excess watering.
- No wires, signs, or other similar items shall be attached to trees.
- No paint thinner, paint, plaster or other liquid or solid excess or waste construction materials or wastewater shall be dumped on the ground or into any grate between the dripline and the base of the tree or uphill from any tree where substances may reach the roots.
- Barricades shall be constructed around the trunks to prevent injury to trees.
- Wherever cuts are made in the ground near the roots of trees, appropriate measures shall be taken to prevent exposed soils from drying out and causing damage to tree roots in accordance with City requirements.
- Damage to any trees during construction shall be reported to the City and treated in a manner specified by the City.

Indirect Impacts to Steelhead Trout and Chinook Salmon

Schedule construction to occur outside the nesting season for sensitive riparian bird species (nesting season occurs from February – July). If this is not feasible, a qualified biologist shall conduct pre-construction surveys for nesting birds along the trail corridor no more than 30 days prior to onset of construction. If nesting sensitive bird species are observed, the qualified biologist shall determine an appropriate buffer zone around the nest, and construction within the buffer zone shall be postponed until all young have fledged, as determined by monitoring by a qualified biologist.

Direct and Indirect Impacts to Nesting Birds in the Grassland and Scrub Habitats

Schedule construction to occur outside the nesting season for loggerhead shrike (nesting season spans April – July). If this is not feasible, a qualified biologist shall conduct pre-construction surveys for nesting birds along this segment of the trail corridor no more than 30 days prior to onset of construction. If nesting loggerhead shrikes are observed, the qualified biologist shall determine an appropriate buffer zone around the nest, and construction within the buffer zone shall be postponed until all young have fledged, as determined by monitoring by a qualified biologist.

CULTURAL RESOURCES To avoid direct impacts to buried cultural resources, the City of San Jose Parks and Recreation Facilities Division shall implement a mitigation program that includes the following:

- Retain a professional archaeologist to review the design-level plans for construction to further evaluate potential project impacts at the recorded locations of the archaeological sites within the alignment.
- Retain a professional archaeologist on an on-call basis to advise the proponent in regard to any unexpected discoveries of cultural resources during construction; and,
- Insert appropriate contract language in excavation contracts alerting the contractor to the potential for buried archaeological resources and the procedures to follow in the event of an inadvertent discovery, per the following:
- If any cultural materials are exposed or discovered during either site preparation or subsurface construction activities, operations shall be halted within 25 feet of the find and a qualified professional archaeologist contacted for evaluation and further recommendations. Potential recommendations could include evaluation, collection, recordation, analysis, and reporting of any significant cultural materials. If the find is determined to be significant, a mitigation program shall be prepared and submitted to the Director of Planning, Building, and Code Enforcement for consideration and approval.
- Treatment of any Native American burials exposed during construction shall be conducted in accordance with the State of California Public Resources Code in consultation with the Native American Heritage Commission.

GEOLOGY AND SOILS

Seismic Hazards

- The project shall be designed in accordance with the seismic requirements of CBC/UBC for seismic zone 4.

- The final trail shall be designed and constructed in accordance with the specific recommendations of a design-level geotechnical investigation. Prior to the issuance of a Public Works Clearance for the project, a design-level geotechnical analysis shall be prepared to the satisfaction of the Director of the Department of Public Works.

Geologic Hazards

- The final trail shall be designed and constructed in accordance with the specific recommendations of a design-level geotechnical investigation. Prior to the issuance of a Public Works Clearance for the project, a design-level geotechnical analysis shall be prepared to the satisfaction of the Director of the Department of Public Works. The geotechnical investigation shall include the following analysis:
- Evaluation of soil liquefaction and lateral spreading potential and identification of appropriate measures to remediate these conditions.
- Delineation of areas of creek bank instability and identification of appropriate mitigation, such as setbacks from the top of bank, fencing, or landslide removal to remediate these conditions.

Expansive Soils Impacts

The final trail shall be designed and constructed in accordance with the specific recommendations of a design-level geotechnical investigation. Prior to the issuance of a Public Works Clearance for the project, a design-level geotechnical analysis shall be prepared to the satisfaction of the Director of the Department of Public Works. This design-level analysis shall include evaluation of expansive soils on the site and identification of appropriate mitigation measures.

HYDROLOGY AND WATER QUALITY

The project shall obtain the applicable state permits under the National Pollutant Discharge Elimination System (NPDES), as required by the State Water Resources Control Board, prior to commencement of construction. This shall include preparation and implementation of a Stormwater Pollution Prevention Plan (SWPPP).

- The project shall submit an erosion control plan to the City of San Jose and the RWQCB. All proposed erosion control measures shall be established in conformance with the City and County grading ordinances, RWQCB regulations, and the Santa Clara Valley Urban Runoff Pollution Prevention Program. See also the mitigation identified for impacts to riparian habitat under **Biological Resources**.
- The project shall install all appropriate drainage facilities using best management practices, such as temporary erosion control measures, infiltration of runoff onsite, and the use of filters and/or oil and water separators where necessary.

LAND USE AND PLANNING – The project will not result in land use conflicts, nor will it conflict with existing land use and plan or policies. The project is also consistent with the City of San Jose Riparian Corridor Policy Study, therefore no mitigation is required.

MINERAL RESOURCES – The project will not have a significant impact on this resource, therefore no mitigation is required.

NOISE IMPACTS

- Construction shall be limited to 7 AM - 7 PM, Monday through Friday, for any onsite or offsite work within 500 feet of any residential unit.
- All internal combustion engines for construction equipment used on the site shall be properly muffled and maintained.
- All stationary noise-generating construction equipment, such as air compressors and portable power generators, shall be located as far as practical from existing residences and schools. The setback distance would be determined in the field based on changing construction conditions.
- “Quiet Package” equipment shall be used when practical.

POPULATION AND HOUSING – The project will not have a significant impact on this resource, therefore no mitigation is required.

PUBLIC SERVICES – The project will not have a significant impact on this resource, therefore no mitigation is required.

RECREATION – The project will not have a significant impact on this resource, therefore no mitigation is required.

TRANSPORTATION / TRAFFIC – The project will not have a significant impact on this resource, therefore no mitigation is required.

UTILITIES AND SERVICE SYSTEMS – The project will not have a significant impact on this resource, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on **February 11, 2005** any person may:

- (1) Review the Draft Mitigated Negative Declaration (MND) as an informational document only; or
- (2) Submit written comments regarding the information, analysis, and mitigation measures in the Draft MND. Before the MND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft MND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final MND; or

- (3) File a formal written protest of the determination that the project would not have a significant effect on the environment. This formal protest must be filed in the Department of Planning, Building and Code Enforcement, 801 North First Street, San Jose, Room 400 and include a \$100 filing fee. The written protest should make a “fair argument” based on substantial evidence that the project will have one or more significant effects on the environment. If a valid written protest is filed with the Director of Planning, Building & Code Enforcement within the noticed public review period, the Director may (1) adopt the Mitigated Negative Declaration and set a noticed public hearing on the protest before the Planning Commission, (2) require the project applicant to prepare an environmental impact report and refund the filing fee to the protestant, or (3) require the Draft MND to be revised and undergo additional noticed public review, and refund the filing fee to the protestant.

Stephen M. Haase, AICP
Director, Planning, Building and Code Enforcement

Circulated on: January 13, 2005

Deputy

Adopted on: _____

Deputy